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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/735,836 | 12/15/2003 | Jon Fliedner | JF-1-gw | 5493 |
| 7590 | 10/25/2005 | | EXAMINER | |
| Michael I. Kroll 171 Stillwell Lane Syosset, NY 11791 | | | ARYANPOUR, MITRA | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3711 | |

DATE MAILED: 10/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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|------------------------------|-------------------------------|---------------------------------|--|
| Office Action Summary | Application No. 10/735,836 | Applicant(s) FLIEDNER ET AL. | |
| | Examiner Mitra Aryanpour | Art Unit 3711 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 September 2005.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 9-14 is/are pending in the application.
4a) Of the above claim(s) 9-12 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-5, 13 and 14 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Claims 9-12 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 01 September 2005.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Butler (3,014,723).

Regarding claim 1, Butler discloses first loop (2), having a first circular wall, the first wall having an inner and outer surface; a second loop (3) having a second circular wall, wherein said outer surface of said first and second loops are directly joined together (see figure 1).

Additionally:

4. Claims 1-5, 13 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Stasiuk (3,115,340).

Regarding claim 1, Stasiuk discloses a first loop (9; identified with tag 1), having a first circular wall, the first wall having an inner and outer surface; a second loop (9; identified with tag 2) having a second circular wall, wherein said outer surface of said first and second loops are directly joined together (see figure 1). It is noted that the preamble, a billiard rack for receiving

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billiards balls ..., does not limit the structure of the claimed device because the portion of the claim following the preamble is a self-contained description of the structure and does not depend on the preamble for completeness.

Regarding claim 2, Stasiuk shows said first and second loops (9) are the same size (see figure 1). Stasiuk shows that the loops can be any desired size (see column 2, line 26-29).

Regarding claim 3, Stasiuk shows the first and second loops can be any size. Therefore, the loops can be sized so that each loop can receive seven billiard balls.

Regarding claim 4, Stasiuk shows said first and second loops (9) are joined together with a bonding agent (the broadest reasonable interpretation of bonding agent would include welding seen at 15).

Regarding claim 5, Stasiuk shows said first and second loops (9) are made of rigid material (see column 3, lines 8-11).

Regarding claim 13, Stasiuk discloses a first loop (9; identified with tag 1), having a first circular wall, the first wall having an inner and outer surface; a second loop (9; identified with tag 2) having a second circular wall, a rigid plate (attaching portion 10 having arcuately bowed rigid strips 11 and 12) joining the first and second loops together (see figures 1, 2 and 4). It is noted that the preamble, a billiard rack for receiving billiards balls ..., does not limit the structure of the claimed device because the portion of the claim following the preamble is a self-contained description of the structure and does not depend on the preamble for completeness.

Regarding claim 14, Stasiuk further shows the loops are collapsible (see column 1, lines 25-32).

Response to Arguments

5. Applicant's arguments with respect to claims 1-5, 13 and 14 have been considered but are moot in view of the new ground(s) of rejection. The structural limitations of the claimed invention as presented read on Patents to Butler or Stasiuk. Both patents show 2 or more loops each having circular walls, wherein each wall has inner and outer surfaces. The loops are joined together either directly or via a plate. Both patents teach that the loops can be formed in any size. The loops irrespective of their size can accommodate 7 billiard balls. As indicated above the preamble, does not limit the structure of the claimed device because the portion of the claim following the preamble is a self-contained description of the structure and does not depend on the preamble for completeness.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mitra Aryanpour whose telephone number is 571-272-4405. The examiner can normally be reached on Monday - Friday 10:00 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Kim can be reached on 571-272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

20 October 2005



**MITRA ARYANPOUR
PRIMARY EXAMINER**